IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

THURSDAY, THE 27TH SEPTEMBER 2007 / 5TH ASWINA 1929

Crl.MC.No. 2968 of 2007()

CC.844/2003 of CHIEF JUDL.MAGISTRATE, ERNAKULAM

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PETITIONER: ACCUSED NOS.2 TO 5

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1. SHAJAHAN, S/O.HANEEFA, AGED 28 YEARS,
KOMATHU HOUSE, MANJUMAL P.O., ERNAKULAM.

2. V.M.RASAQUE,AGED 33 YEARS,
S/O.MUHAMMED, VELUKODAN HOUSE,
N.A.D. P.O., ALUVA.

3. HABEEB K.A., ALIAS ABY, S/O.ABDUL,
AGED 28 YEARS, KOTTAPADI HOUSE,
N.A.D. P.O., ALUVA.

4. BASHEER K.P., S/O.PAREETH,
KANDOTHUMPARA HOUSE, N.A.D. P.O.,
ALUVA.

BY ADV. SRI.P.M.ZIRAJ

RESPONDENTS: COMPLAINANT

STATE OF KERALA, REPRESENTED BY
PUBLIC PROSECUTOR HONOURABLE HIGH COURT OF KERALA
AT ERNAKULAM REPRESENTED BY THE SUB INSPECTOR OF
POLICE, ERNAKULAM CENTRAL POLICE STATION IN
CRIME NO.87 OF 2003.

BY PUBLIC PROSECUTOR SRI. GIKKU JACOB

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON 27/09/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R. BASANT, J.

Crl.M.C. No. 2968 OF 2007

Dated this the 27th day of September, 2007

ORDER

No representation for the petitioners. The petitioners face indictment for offences punishable under Secs.143, 147, 148, 323 and 324 read with Sec.149 of the IPC. Investigation is complete. Final report has already been filed. Cognizance has been taken as C.C.No.844/03 by the learned Chief Judicial Magistrate, Ernakulam. The petitioners had not appeared before the learned Magistrate. Consequent to the non-appearance of the petitioners, the learned Magistrate has initiated coercive proceedings against the petitioners to secure their presence. Warrants of arrest issued by the learned Magistrate are chasing the petitioners.

2. According to the petitioners, they are absolutely innocent. Their absence was not wilful; but was due to

reasons beyond their control. The petitioners are prepared to surrender before the learned Magistrate and seek regular bail. The petitioners apprehend that their applications for regular bail may not be considered by the learned Magistrate on merits in accordance with law and expeditiously. It is, in these circumstances, that the petitioners have come to this Court for a direction to the learned Magistrate to release them on bail when they appear before the learned Magistrate.

3. It is for the petitioners to appear before the learned Magistrate and explain to the learned Magistrate the circumstances under which they could not earlier appear before the learned Magistrate. I have no reason to assume that the learned Magistrate would not consider the petitioners' applications for regular bail on merits in accordance with law and expeditiously. No special or specific directions appear to be necessary. Every court must do the same. Sufficient general directions on this aspect have already been issued in the decision reported in **Alice George v. Deputy Superintendent of Police** (2003 (1) KLT 339).

4. In the result, this Crl.M.C. is dismissed; but with the observation that if the petitioners surrender before the learned Magistrate and seek bail, after giving sufficient prior notice to

the Prosecutor in charge of the case, the learned Magistrate must proceed to pass appropriate orders on merits and expeditiously – on the date of surrender itself.

Sd/-

(R. BASANT, JUDGE)

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P.S. to Judge